

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Andrew Marshall McElrath, )  
)  
Plaintiff, )  
)  
v. )  
)  
Claudia Diane Evans and Edward )  
Eddie Evans, )  
)  
Defendants. )  
\_\_\_\_\_ )

Civil Action No. 8:23-799-BHH

**ORDER**

This matter is before the Court upon Plaintiff Andrew Marshall McElrath's ("Plaintiff") pro se amended complaint against Defendants Claudia Diane Evans and Edward Eddie Evans ("Defendants"). In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), the matter was referred to a United States Magistrate Judge for initial review.

On March 31, 2023, Magistrate Judge Kaymani D. West filed a Report and Recommendation ("Report") outlining the issues and recommending that the Court dismiss this action without prejudice and without issuance and service of process, explaining that Plaintiff's amended complaint failed to correct the deficiencies previously identified by the Magistrate Judge and fails to establish the Court's jurisdiction over Plaintiff's claims.

Attached to the Report was a notice advising Plaintiff of his right to file written objections to the Report within fourteen days of being served with a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final

determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because Plaintiff has no objections, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and fully agrees with the Magistrate Judge that this action is subject to dismissal because Plaintiff’s amended complaint does not cure the deficiencies previously identified by the Magistrate Judge (ECF No. 10) and fails to establish this Court’s jurisdiction. Accordingly, the Court hereby **adopts and incorporates** the Magistrate Judge’s Report (ECF No. 20) and **dismisses this action without prejudice and without issuance and service of process.**

**IT IS SO ORDERED.**

May 2, 2023  
Charleston, South Carolina

/s/Bruce H. Hendricks  
United States District Judge